



PUBLIC NOTICE

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Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

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[DA-05-676]

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: March 15, 2005

FEE DECISIONS OF THE MANAGING DIRECTOR AVAILABLE TO THE PUBLIC

The Managing Director is responsible for fee decisions in response to requests for waiver or deferral of fees as well as other pleadings associated with the fee collection process. A public notice of these fee decisions is published in the FCC record.

The decisions are placed in General Docket 86-285 and are available for public inspection. A copy of the decision is also placed in the appropriate docket, if one exists.

The following Managing Director fee decisions are released for public information:

Atlantic Coast Radio, LLC – Request for wavier of FY 2004 and late charge penalty for FY 2004 regulatory fees. **Denied** (January 10, 2005) [See 47 C.F.R. § 1.1164]

ATX Licensing, Inc - Request for waiver of FY 2004 regulatory fees. **Granted** (October 26, 2004) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

Bible Broadcasting Network Inc. – Request for refund of application fee. **Granted** (January 10, 2005) [See 47 C.F.R. § 1.1114(c)]

Caribbean Maritime Excursions - Request for refund of application fee. **Denied** (January 12, 2005) [See 47 C.F.R. § 158(d) (2)]

Colane Cable TV, Inc – Request for waiver of a late charge penalty for FY 2004 regulatory fees. **Denied** (January 4, 2005) [See 47 C.F.R. § 1.1164]

Creative Media, Inc - Request for waiver of FY 2004 regulatory fees. **Granted** (January 4, 2005) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762 (1995)]

Cumbre Communications Corp (Debtor-in-Possession) - Request for waiver of FY 2004 regulatory fees. **Granted** (October 26, 2004) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

Diamond Broadcasting Corporation - Request for waiver of FY 2004 regulatory fees. **Granted** (December 20, 2004) [See Implementation of Section 9 of the Communications Act 10 FCC Rcd 12759, 12762 (1995)]

Eagle Bluff Enterprises (KBMV-AM) - Request for waiver of FY 2004 regulatory fees. **Granted** (January 4, 2005) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762 (1995)]

Gabriel Wireless, LLC– Request for waiver of a late charge penalty for FY 2004 regulatory fees. **Dismissed** (January 26, 2005) [See 47 C.F.R. § 1.1164]

Grove Communications, Inc. – Request for waiver of FY 2004 regulatory fees. **Denied** (January 4, 2005) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), on recon, Memorandum Opinion and Order, 10 FCC Rcd 12759 (1995)]

Intercommunication American Systems, Inc. – Request for deferral of FY 2004 regulatory fees. **Denied** (October 26, 2004) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1995), on recon. 10 FCC Rcd 12759 (1995)]

International Christian Supply – Request for wavier of the penalty for late payment the FY 2004 regulatory fees **Denied** (January 25, 2005) [See Communications Act of 1934]

Loral SpaceCom Corporation (Debtor-in-Possession) - Request for waiver and Deferral of FY 2004 regulatory fees. **Granted** (October 22, 2004) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762-62 (1995)]

Meridian Communications of Idaho, Inc - Request for wavier and refund of FY 2004 regulatory fees. **Granted** (January 4, 2005) [See 47 C.F.R. § 73.3598(b) (ii)]

Metrocall Holdings, Inc - Request for refund and waiver of filing fees **Denied** (January 12, 2005) [See 47 C.F.R. § 158(d) (2)]

Music Express Broadcasting Corporation WATJ (AM) - Request for waiver and deferral of FY 2004 regulatory fees. **Granted** (October 26, 2004) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

NTT America, Inc - Request for waiver of the penalty for late payment the FY 2004 regulatory fees **Denied** (December 14, 2004) [See Assessment and Collection of Regulatory Fees for Fiscal Year 2004, Report and Order, FCC 04-146]

ORBCOMM LLC and ORBCOMM License Corp - Request for waiver and deferral of the FY 2002 regulatory fees. **Granted** (January 12, 2005) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 5333, 5346 (1994), recon. **Granted**, 10 FCC rcd 12759 (1995)]

Pegasus Broadcasting Associates, LP - Request for deferment and waiver of FY 2004 regulatory fees. **Granted** (January 11, 2005) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

Radio Bilingue, Inc (KSJV, KMPO, KTOX, KUBO and KHDC) - Request for an exemption from the regulatory fees for FY 2004 **Granted** (October 26, 2004) [See 47 C.F.R. § 1.1114(c)]

Reading Broadcasting, Inc (WTVE-DT) - Request for waiver of FY 2004 regulatory fees. **Granted** (January 4, 2005) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 5333, 5346 (1994), recon. **Granted**, 10 FCC rcd 12759 (1995)]

Satellite Access Corporation - Request for waiver of application fees. **Granted** (October 22, 2004) [See 47 C.F.R. § 25.137]

Sonia Broadcasting Company, LLC - Request for waiver of FY 2004 regulatory fees. **Granted** (January 12, 2005) [See Implementation of Section 9 of the Communications Act, 9

FCC Rcd 5333, 5346 (1994), on recon. **Granted**, 10 FCC Rcd 12759 (1995)]

Swisscom North America, Inc - Request for waiver of the penalty for late payment the FY 2004 regulatory fees. **Denied** (January 4, 2005) [See Assessment and Collection of Regulatory fees for Fiscal Year 2004, Report and Order, FCC 04-146]

WDLP Broadcasting Company, LLC - Request for waiver of FY 2004 regulatory fees. **Granted** (January 12, 2005) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), on recon. **Granted**, 10 FCC Rcd 12759 (1995)]

WWSJ (AM) - Request for waiver of the penalty for late payment the FY 2004 regulatory fees. **Denied** (October 26, 2004) [See 47 C.F.R. § 1.1157]

NOTE: ANY QUESTIONS REGARDING THIS REPORT SHOULD BE DIRECTED TO THE REVENUE AND RECEIVABLES OPERATIONS GROUP AT (202) 418-1995.

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FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

TOM PUTMAN
R&ROG

OFFICE OF
MANAGING DIRECTOR

January 10, 2005

Lisa Menconi
Atlantic Coast Radio, LLC
10940 Sunrise Ridge Circle
Auburn, California 95603

Re: Atlantic Coast Radio, LLC
Request for Waiver of FY 2004
Regulatory Fee Penalty
Fee Control No. 00000RROG-05-002

Dear Ms. Menconi:

This responds to your September 9, 2004 letter requesting waiver of the penalty for late payment of the fiscal year (FY) 2004 regulatory fees for Atlantic Coast Radio, LLC (Atlantic Coast Radio) in Auburn, California. Our records show that the FY 2004 regulatory fee penalty of \$2,306.25 has not been paid.

In your letter, you state that during a telephone call to the Commission on August 10, 2004, a representative misinformed you that the FY 2004 regulatory fees would be considered filed in a timely manner so long as they were *postmarked* by August 19, 2004, the date of the Commission's FY 2004 payment deadline. You also state that, accordingly, you mailed your payment on August 18, 2004, but would have done so earlier had you realized that the Commission requires that regulatory fee payments be *received* by the date and time of the Commission's deadline. You further state that Atlantic Coast Radio has always paid its regulatory fees "in good faith and on time."

The Communications Act of 1934, as amended, requires the Commission to assess a late charge penalty of 25 percent on any regulatory fee not paid in a timely manner. It is the obligation of the licensee responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year. See 47 C.F.R. § 1.1164. Your request does not indicate or substantiate that you met this obligation. Nor does the statute permit the Commission to remove this obligation even under circumstances, such as those you recite, where the licensee may have received informal advice that was inconsistent with the Commission's published rules. Further, although you may not have been aware of or fully understood the Communications Act or the Commission's rules regarding regulatory fees, Commission licensees are expected to know and understand the requirements and rules governing their licenses.¹ Therefore, your request is denied.

¹ Among other things, the Commission issued Public Notices announcing the due date for payment of fees. *Public Notice*, DA 04-2215, July 21, 2004; *Public Notice*, DA 04-2262, July 23, 2004; *Public Notice*, DA 04-2549, August 18, 2004.

Lisa Menconi

2.

The circumstances you recite, concerning the difficulty you experienced in obtaining accurate information from a Commission representative concerning the deadline for payment of the FY 2004 regulatory fee, are regrettable. We apologize for any inaccurate information that you may have been provided. As noted above, however, Atlantic Coast Radio's regulatory fee obligations are established by the Communications Act and the Commission's rules and Public Notices. Thus, any information to the contrary provided by informal staff contacts cannot serve as a basis for the Commission to waive the late charge penalty that is made obligatory by federal law.

Payment of the \$2,306.25 late charge penalty for late payment of the FY 2004 regulatory fee is now due. The late charge penalty should be submitted, together with a copy of Bill number 0420000328 (copy enclosed), within 30 days of the date of this letter. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer

Enclosure

Atlantic Coast Radio, LLC

10940 Sunrise Ridge Circle
Auburn, California 95603
(530) 887-9090
(530) 887-9040 fax
lmenconi@sbcglobal.net

SEP 14 4 30 PM '04

September 9, 2004

2dy letter
Assign to
Resinia
cc: Patty
TICKLER for 30 days
MHL
9/19/04

Federal Communications Commission
ATTN: Mark A. Reger, CFO
445 12th Street, S.W.
Washington, DC 20554

RE: Waiver for penalty for late regulatory fee payment (call sign: WLOB-FM; bill #0420000328; FRN #0003771128)

Mr. Reger:

We received a Bill for Collection dated 8/26/04 from the FCC which I believe is in error because it claims that we were late in paying our annual fees. Please let this letter represent our written request for a waiver of any and all penalties associated with Atlantic Coast Radio's annual FCC Regulatory Fees for reasons stated below.

In preparation for payment of our annual FCC Regulatory Fees, I called the FCC on Tuesday, August 10, 2004 to confirm the fact that as long as our forms and payments were mailed by August 19, 2004 and properly postmarked as such, our payments would be considered on time. I went on to describe to the representative from the FCC that I would obtain evidence of mailing via Certified Mail (see attached) and she indicated that as long as it postmarked by August 19, 2004 everything would be fine. Unfortunately, I did not write down the name of who I spoke with that day, but the General Manager of the stations was present during my call and witnessed it and can corroborate my experience.

So, given that information, I mailed our regulatory fees on August 18, 2004 via Certified Mail. I was shocked and confused by the Bill for Collection that we received and so was my boss. I have called the Revenue & Receivable Ops Group several times and left a message with the manager, but she has never returned my calls. Ms. Penny from the Revenue & Receivable Ops Group has told me that our payment needed to be "postmarked by Melon Bank by August 19th". I reiterated my story to her and she continues to repeat that line. No one told me during my initial call on August 10th anything about Melon Bank. Furthermore, I have never heard of a bank 'postmarking' anything. The US Post Office postmarks (I thought).

Anyway, I was originally told that postal service postmark by 8/19/04 was considered proper and timely payment. I would appreciate it tremendously if you could waive any penalties associated with Atlantic Coast Radio, LLC. We have always paid in good faith and on time and feel that this instance is a miscommunication and that I was given incorrect information. Had I been given correct information, it would seem obvious that I would have sent it in sooner. Please feel free to contact me at the above number(s) if you need further information pertaining to this issue.

Thank you for your time and consideration with this matter.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Menconi".

Lisa Menconi
Atlantic Coast Radio, LLC